

JUSTICE, WAR AND POLITICS: VIETNAM IN THE UNITED STATES

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The question of justice and war is *precisely* a question: Can war ever be the task of justice?

Pacifism is one clear response to this question. There are different pacifisms, certainly, but they seem to converge at the point of policy. There is a pacifism which may be called experiential, in the sense that one's reading of the history of armed conflict forces one to conclude that, on balance, war will never produce good fruit. There is another which may be institutional or deontological, in that one somehow knows, independently of inductive, logical processes, that the life-taking which war is, is intolerable. Both positions yield a general policy posture: War may not be done.

The classic alternative response to our initial question is simply to say that war may sometimes be the human reaction to a situation — and by definition, therefore, may sometimes be the wrong reaction. This means essentially that one will think of war as one thinks of most possible difficult human actions: what to do is not known *a priori* but is *decided* after a process of judgment is gone through. What are the values at issue, what are the relevant principles of action, what are the characteristics of the situation, what path of action seems most likely to effect optimum good (or minimal evil)?

If one travels this second road, and worries about such things as act-justification, then he will likely turn to the question of "guiding principles," a kind of moral forearming. Are there any useful generalizations about the conditions under which war may be licit or illicit? Are there any viable guiding principles which should inform one's conscience before the fact? The tradition of theorizing about justice and war appears to be this kind of enterprise.

Such theorizing has concerned itself mainly with three areas of problem: What might legitimately cause a nation to consider war? What means are ac-

ceptable if war is judged to be the indicated action? What should be the *objectives* of a war if it is undertaken? Very summarily, standard thinking appears to offer these guiding principles in reply to those problems: Valid *cause* is some kind of genuine aggression, not necessarily direct, carrying a large threat, and with no optional lines of response. The selection and application of the *means* of warfare are to be done under the aegis of the principle of proportionality and the principle of discrimination. (Proportionality is here defined to mean that war actions should produce no evil effects greater than their benefits and should apply no greater force than necessary, and discrimination is defined to mean the moral immunity of non-combatants from direct attack.) The *objective* of a chosen war should be possible, and it too should be proportionate, i.e., it should seek to "right the balance," rather than lay waste or scorch the earth.

Most work on justice and war has centered on one or more of these three issues. This is understandable enough, since these issues are both obvious (as issues for moral judgment) and obviously important (if one chooses to submit war to moral judgment). Paul Ramsey, for example, has rather centered his work on controlling the conduct or means of war, having first realistically resigned himself to its likelihood. The phenomenon of nuclear arms and the character of insurgency warfare have prompted many others to concentrate their analysis on the question of means. Theodore Weber, in *Modern War and the Pursuit of Peace* (CRIA, 1968) and elsewhere, has been balancing this somewhat by probing the matter of cause and especially the question of intention or objective.

Applied to Vietnam, these three categories of cause, means, and objective raise particular questions, the answers to which should perhaps tell whether one is generally for or against American policy there: Has there been in Vietnam not simply aggression, but aggression which actually threatens the United States? How, if at all, can the principles of proportionality and discrimination be operative in a Vietnam-like situation? Is such an enterprise feasible short of total destruction or total saturation? These and related questions have raged for years, and rightly so.

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Cause, means, objectives — crucial parts of any consideration of justice and war, and central to the debate over Vietnam. Yet it seems none of them is the most excruciating problem raised for and in the United States by the Vietnam war. There is in traditional thought a fourth category: authority, or who rightly decides? The first three categories all require judgment, and the fourth is really about who does the judging. And to this should be added, in polities with responsive leaderships, a companion question: What are the influences on those who decide?

In the essay cited above, Theodore Weber explores the problem of authority in terms of the legitimacy of nation-state actions as compared to multi-lateral actions. This is extremely important and helpful, but it does not touch the matter of authority *within* the state. Imagine, if you will, an institutionally non-responsible governor (not irresponsible) — perhaps an absolute monarch. Imagine further that this governor was imbued with the principles of just war. Such a ruler, confronted with the possibility of war, could simply respond to the “objective realities” of the situation, decide if war was justly required and if so how to prosecute the war.

Contrast this imaginary decision-maker with his democratic counterpart. Clearly, the democratic governor is in a radically different political environment. We would certainly say that he ought to respond to the “objective realities,” but he cannot be free of his political base — nor do we *want* him to be free, though the “anti-politics” of our day seems not to perceive this. This problem, the *politics* of justice and war in the democratic situation, may be the most important issue produced by Vietnam in the United States.

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It may be instructive to ponder the lessons of World War II. F.D.R. was generally applauded during that war. Relatively speaking, he had an easy political problem — it seemed a morally easy war. But he has received, and Harry Truman has received in his wake, very considerable criticism from both strategists and moralists since the war. (Indeed, the after-the-fact character of morally-based criticism is precisely what causes men such as Gordon Zahn to question the utility of just war theory.) The basic lines of this criticism include the following:

Extravagance of means: saturation bombing, as typified by Dresden; Hiroshima and Nagasaki, which were Truman’s acts but were practically pre-determined by the modes of thinking about nuclear use which were adopted before Roosevelt’s death; forced relocation of Japanese-Americans.

Such actions as these, and they could be multiplied, are offered as indications that Roosevelt and those around him did not carefully weigh the *need* for each device or tactic employed, and thus were not significantly restrained by the principles of discrimination or proportionality.

The failure of politics: There was significantly a systematic breakdown of lines of responsibility during World War II. Contrary to much Bricker-type argument, the breakdown did not result from Roosevelt’s rape of Congress, but rather from Congressional abdication matched by Presidential willingness to usurp. Thus, though not a rapist, F.D.R. was a usurper and reveled in the resulting non-restraint and non-responsibility.

Frenzy, not cool reason, in the political base: It is suggested that F.D.R. felt that if the United States was to make an effective war effort, it would be necessary to generate an emotional response from the public. Whether F.D.R. ever actually made such a judgment is perhaps not crucial, since calculated or not, the symptoms were there: the adversaries were consistently portrayed as evil; the enemy of my enemy resoundingly became my friend; unconditional surrender and destruction of power centers became the “objectives” of the war.

Resultant strategic errors: As if the foregoing were not enough, it is also contended that the very policies and attitudes which are criticized finally yielded bad fruit: they created a false sense of the war as a device to end all major problems, and contributed heavily to the sense of delusion when problems persisted; they tied the hands of Harry Truman who confronted an overwhelming surge to “bring the boys home” since the war was destined to end all problems; and in general they fogged over the political character of war.

Serious reflection on these difficulties posed by the conduct of World War II has helped to produce a kind of new formula of just war. Perhaps it might be thought of as an attempt to re-introduce rational controls over warfare after the excesses of the two world wars. Leaving out of our consideration the matter of rationality as a characteristic of nuclear weapons controls, it is possible to identify several of the up-to-date, new-model criteria of justice in war. Granting first the possibility of war as a just act, and assuming second a situation in which government decides that military confrontation must take place, perhaps the following criteria are applicable. First the war must be limited and negative in its intention. That is, the point of it must be to stop the aggressor rather than hold his territory. (This notion of “limited” is not mutually exclusive with “open-ended.”)

Second, the public should not be goaded to hatred of the adversary, but rather it should be "cooled"—convinced of the need to sustain the war, but not sold a simple devil theory.

Third, the level of force would be determined by need, i.e., by the adversary's force levels, thus insuring that excess force levels would not be used.

Applied to "people's wars," the point is to win a test of wills, rather than securing a traditional territorial objective, and this suggests that patience—patience in the political base—becomes the first prerequisite for the "rational" conduct of such a war.

Finally, and as always, there would have to be feasibility about such a program.

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On the basis of the past four years—the Johnson-Vietnam era—we need to probe the presuppositions contained in this modern thinking about justice and war. Especially, we need to ask what this kind of thinking presupposes from the *adversary* and from the *public* in democratic situations. This in turn may cause us to ask whether F.D.R. could have been right—whether he knew instinctively more than we presume to know rationally about the terms of war in democracies. If conducting war justly means at least the points outlined above, what does the history of Vietnam in the United States suggest about our capacity to do war justly when the adversary does not give us the luxury of clarity?

The following analysis of the meaning of Vietnam for the United States rests on several premises which require illumination and which, obviously, are open to question. First, that Vietnam presented and presents to the U.S. the necessity to *judge* concerning the stakes involved—i.e., that the significance of Vietnam to the United States, whether great or small, has never been self-evident. Second, that in general we have government precisely to make definitive judgments in unclear situations. Third, that the American government might have judged differently about Vietnam, but in either case the judgment might be correct or incorrect. Fourth, and perhaps most important, that if the government is in some sense legitimate (and this is determined largely on *procedural* grounds), the burden of argument falls on the opponents of the government's policy judgment. This requires some amplification. It does not mean that we are unfree to oppose government policy, or even disobey under some circumstances. It means only something about the conditions under which we may *rightly* do either. It means something about how one would form his judgments en route to either dissent or disobedience. It means, for example, that one can-

not demand demonstrability or certitude from government when the issue at hand can intrinsically yield nothing more than plausible judgment.

There are two other premises of a quite different order. First, that there is and has been a central and fairly consistent U.S. policy in Vietnam, which has from time to time been distorted by Administration spokesmen. The central policy, broadly defined, has been collective security for containment. And second, that this policy is an inherently difficult one, politically speaking, because it tends to bury the evidence of its need precisely to the extent it is successful. For example, the only final proof that the Soviets coveted Western Europe after World War II would have been for them to overrun it. The U.S. and her allies developed policies which made overrunning prohibitively dangerous. *If* the Soviets actually coveted Western Europe, then they were deterred by containment and it was successful. But even if it was successful, it destroyed the proof of its necessity by its success. Not surprisingly, revisionism now tells us that containment was never necessary, that in fact it hardened Soviet resolve, and so forth.

With these premises, and reflecting on the earlier outlining of what just war is taken to mean currently, it seems possible to portray American policy in Vietnam as an attempt—though perhaps not a successful one—to retain rationality in war. One realizes that in saying this he may have abruptly ended any conversation with those who have long since determined the war to be absurd. Yet it must be said. Let us review the grounds for saying it.

Somewhere between the Fall of 1964 and the Spring of 1965, fundamental judgments were made by the Administration concerning the U.S. stake in Vietnam. The essence of those judgments appears to have been that a significantly destructive pedagogy would flow from a Viet Cong-North Vietnamese success in South Vietnam. Such a success was deemed likely to contribute to further aggressiveness in Indo-China, and to encourage similar developments beyond Indo-China by weakening the ruling elements, encouraging Communist insurgents, and discrediting U.S. commitments. Vietnam was interpreted by the U.S. as being a test case of Krushchev's 1961 thesis on wars of national liberation, a thesis later amplified and re-stated by Lin Piao in September, 1965.

Given this assessment of the stakes, the basic policy adopted is not a surprising one. What was needed, in this interpretation, was essentially to reverse the pedagogy. That is, South Vietnam, unchosen by us, happened to be the place, and the objective was to stop success there, thereby shoring up South Vietnam's neighbors immediately, encouraging other re-

gimes and discouraging insurrectionary elements within them, proving the credibility of U.S. commitments, and in general disproving the prophecies of people's wars.

To desire the end is to desire the means, and explicit or implicit in American policy are crucial judgments about the *means* to be used in seeking the objectives, and also about the *conditions* on which this achievement would have to rest. The underlying means has been a limited and negative program, in which the prime objective has been to stop something from happening. Obviously, there has been no traditional type territorial objective. There has been a proportionality of force in the sense that force levels have been determined substantially by the adversary. There seems not to have been at any given time "all available force" (excluding nuclears) brought to bear. And, *relatively* speaking, there seems to have been considerable respect for the principle of discrimination. Heavy civilian casualties are an inescapable part of any military posture that would be taken in Vietnam, but policy seeks to minimize them. All these characterizations of the means are relative, of course, and all the means have produced great aberrations — but they seem to have been basically sustained. The collective means, then, have been to stop the adversary and to convince him of the permanence of the stoppage. There can be no doubt that serious miscalculations were made about how long it would take, how much force would be required, and the like, but those who studied the policy carefully in its inception knew that the policy had to be open-ended, with no *a priori* limit of scale.

Just as policy objectives imply the means to secure them, the means themselves presuppose certain conditions to be effective. Presupposed by the means outlined above — though perhaps never articulated by the policy-makers — are two inter-related propositions. First, that the adversaries could in fact be convinced, i.e., that it was possible rationally to communicate to them that finally their efforts must fail and therefore they should fold their tents. Second, and fundamental to the first, this policy presumed that the Administration's political base was strong enough to support and sustain this kind of war, and thereby provide the "proof" to the adversaries that finally success would be denied them.

Some things about this policy are obvious enough. It is a hugely complex policy, a kind of pyramid of judgments. And each block is open to question: the stakes, the objectives, the means, and the presumed conditions. It has received this questioning voluminously, but less on the two presumptions and especially the second — the strength of the political

base — than on the other points. Yet it is this second presumption which in many respects is the most important ingredient of the whole policy. On it, for example, hangs the ability of the Administration to act in Vietnam on "objective" grounds; to respond to what they take to be the realities of Vietnam instead of responding to the "subjective" realities of American polities. This has always been the political danger of the policy: that there might be escalation or withdrawal for the *wrong* reasons. Illustrative of this problem is the phenomenon of the loss of credibility in the Administration. Whether through consistently wrong prognostications, exaggerations, or deceit, the Administration has contributed to a sharp decline in public confidence. Yet, these characteristics do not and cannot tell one what should be done in Vietnam. They tell much about the Administration; they tell little about what the needs are in Vietnam.

Similarly, there has been a significant loss of support for Vietnam policy because of the impact of that policy on domestic needs of the U.S. This is truly a part of the cost of this or any war. Yet it seems that it is a cost difficult to assess, for if the external threat is genuine, it can probably be argued that it must be met first. In other words, the argument is again not over whether there are domestic costs, but whether the stakes in Vietnam are as portrayed.

And on this second presumption of strength in the political base hangs also the possibility of convincing a determined adversary that time is not on his side.

Out of these considerations it is possible to produce a thesis. Essentially it is that American policy has been a failure in its domestic dimensions, and that this failure threatens whatever has been achieved in Vietnam and clearly threatens the future of that policy. Again, we note the unfortunate but probably necessary divisiveness of such a thesis. If one judges that American policy on Vietnam is fundamentally wrong, then the phenomena here described as political failures may well be thought of as triumphs of the political system. Apparently Eugene McCarthy and his supporters would interpret them so. But for those who endorse at least American purpose in Vietnam — which obviously does not constitute an endorsement of all tactics and all things said — for those the events of this year are likely to indicate political failure or potential failure. Why?

The regime of Ho Chi Minh probably has an indefinite endurance capacity. The bases for saying this are two: a populace with a tradition of deprivation; and, perhaps more crucial, a political structure which need not conform to popular will in any sense comparable to a representative system. Given an indefinite endurance capacity, the reasons for giving up

a cherished objective are few. Perhaps the threat of total systemic destruction would be one — but the United States has always disavowed that action. The other possible reason would be to become convinced that the actual stopping which the U.S. and allies were doing would be sustained for an indefinite period of time, which, if true, would cancel out indefinite endurance capacity and probably make the policy of forced consolidation non-rational.

But this reason for ceasing would lose its force if there were some apparent chance of winning in the United States, i.e., some chance of the political base behind American policy withering to the point where the policy itself could not be sustained. Thus, one needs to ask what the events from the New Hampshire primary onward would have meant to the North Vietnamese and their allies. Seemingly, these events might hold out the possibility of success through U.S. politics, success unattainable through military activity. This cannot be used as a critique of McCarthy or Robert Kennedy, and it is not so intended. Presumably, on whatever grounds, they concluded that American policy was bankrupt and thus if their actions had the effect of making that policy more difficult or even impossible, so be it.

The political failure here suggested has several parts, and the parts are inter-related. There was an underestimation of the adversary's capacity to endure. There was a failure to make allowance for the "burial of evidence" which is characteristic of any successful containment. And there was an overestimation of the strength of the political base, and certainly of its willingness to support a long, complex and quite limited war.

If this analysis is correct, it may raise some serious doubts about American capacity to war "rationally" (justly) in unclear situations. It is possible that, even if the above analysis is correct, it is only a failure of this *particular* Administration, with no general or theoretical significance. The ruminations of this paper may be only another instance of the drive to find continuing significance in events which are only singular though momentous. But that is doubtful, for the actions of this Administration seem typical rather than exceptional. One suspects that most men in a non-confronted political situation would have acted comparably.

At any rate, to the extent that the political failures described above are systemic rather than personal, they suggest some rather ominous portents for future American policy. For instance, it is commonly said that if Vietnam achieved nothing else, it has assured that there will never be another Vietnam. This is an intriguing posture, for what if there *need* to be other

at least quasi-Vietnams? Our present position may amount then to a kind of practical rather than theoretical pacifism — with potential adversaries making certain that clarity never obtains, and the U.S. being paralyzed by its absence. This is perhaps what Paul Ramsey is getting at when he criticizes some for "outlawing *all* wars one-by-one."

In the final analysis, this kind of pacifism by indirection is not likely to happen, however. The reason is simply *raison d'état*. And for the same reason, a more likely eventuality would be that a future President — convinced on some grounds of the necessity of war and reflecting on Vietnam — might decide that wars cannot be so nicely controlled and that he will lose his political base if he tries. If there must be one, perhaps the lid must be taken off, the drums banged, the field expanded, and dissent choked — in other words, do whatever has to be done to secure the political base.

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For those who believe that war may sometimes be just, but must always *be* just to be do-able, neither of these possible lessons from Vietnam is acceptable. If there is a happier lesson to be learned, it will probably include at least these two elements: the need to educate the public, and especially the articulate, opinion-forming publics, to the judgmental character of war; and the need to restructure our political institutions so as to ensure more circumspection *before* the definitive judgments are made and more responsibility *during* any conflict, so that more trust can realistically be placed in the decision-makers.

The last point is of great importance. In the Fall and Winter of 1964, President Johnson may well have thought of his powers as being complete concerning Vietnam. As the Gulf of Tonkin resolution suggests, he would not have been far from wrong. Yet his very freedom, his ability to act without restraint, ultimately contributed to his inability to sustain his support. By the same token, the lack of forced responsibility enhances the chances of irrational decisions, and a non-confronted forum encourages the exaggerated statement, the hyperbole which returns like a boomerang to plague the sayer.

None of this is to confirm the wisdom of Senator Fulbright's repeated demands that the Administration unilaterally submit to the Senate Foreign Relations Committee. Given the logic of separation-of-powers, no President will ever do this without a substantial Congressional reciprocity. Rather, it is to say that the kind of institutional responsibility here recommended will be achieved only when political power and political responsibility are collegially possessed.